

567—218.9(455D) Abatement site determination criteria. This rule establishes the criteria that the department shall follow in determining which sites will be subject to abatement, including the criteria for determining the degree of nuisance posed by stockpiles.

218.9(1) *Size of stockpile.* Stockpile sites will be placed into the following categories based on the number of waste tires present at each site:

- a.* Sites with 50,000 or more waste tires receive first priority;
- b.* Sites with at least 10,000 waste tires but less than 50,000 waste tires receive second priority;
- c.* Sites with at least 500 waste tires but less than 10,000 waste tires receive third priority.

218.9(2) *Nuisance criteria.* For the purposes of abatement, sites within each priority category specified in subrule 218.9(1) shall be ranked according to the degree of nuisance posed by each site as determined by the following evaluation criteria.

a. Susceptibility to fire. The department's evaluation shall consider characteristics of the stockpile which constitute a fire hazard, such as the absence of fire lanes, lack of emergency control equipment, presence of easily combustible material or activities which could cause the pile to ignite, and lack of site access control.

b. Risk to the environment or to public health, safety or welfare. The department's evaluation shall consider characteristics of the stockpile which might constitute a danger to the environment or to public health, safety or welfare. Such characteristics include, but are not limited to, proximity to surface waters or to other environmentally sensitive areas, proximity to population concentrations, especially susceptible populations such as hospital patients, proximity to property owned by a third person, susceptibility to mosquito infestation, proximity to public or private water wells, and visibility from public roadways.

c. Other special conditions. After ranking sites in each priority category specified in subrule 218.9(1) in terms of the evaluation criteria specified in paragraphs 218.9(2) "a" and 218.9(2) "b," the department may further prioritize the sites by considering other special conditions. Such conditions may include a local fire district's or a local governmental agency's determination that deems the site to be a danger or nuisance, or an environmental concern justifying prompt abatement action.

218.9(3) *Discretionary.* In the process of contracting for nuisance abatement activities, the department may combine the cleanup of stockpiles that rank lower than other potential abatement sites if these sites are located in the general area of a site that ranks high as determined by the criteria specified in subrules 218.9(1) and 218.9(2) and if in the department's judgment this action would be a more cost-effective and expeditious use of abatement funds.

218.9(4) *Financial considerations.* In determining its order of priority for stockpile abatement activities, the department may justify contracting for the cleanup of lesser priority sites if either of the following conditions applies.

a. Moneys available in the abatement fund pursuant to rule 218.6(455D) are not sufficient to address the current highest priority site as ranked by the department. Under these circumstances, the department may conduct abatement activities at a lesser ranked site or sites whose estimated abatement costs coincide with available funding.

b. Under the limited funding circumstances described in paragraph 218.9(4) "a," and where the owner or operator of a nuisance stockpile is willing to provide a cost share for the abatement of the site, the department may conduct abatement activities at a lesser ranked site if the estimated abatement costs coincide with available funding as supplemented by the owner or operator of the site through a negotiated settlement.